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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,669	01/11/2002	Alfonso Losada	SAS/33	8368
498	7590	03/02/2005	EXAMINER	
JAMES R. CYPHER 405 14TH STREET SUITE 1607 OAKLAND, CA 94612			SAETHER, FLEMMING	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/043,669

Applicant(s)

LOSADA, ALFONSO

Examiner

Flemming Saether

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) 2, 6, 7, 13, 14, 17, 18, 24 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-5, 8-12, 14-16, 19-23, 25 and 27-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Election/Restriction

Applicant's election of species G (Fig. 7) in the reply filed on 6 December 2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Accordingly, claims 2, 6, 7, 13, 17, 18, 24 and 26, are withdrawn from further consideration pursuant to 37 CFR 1.142(b). Should a generic claim become allowable, all the claims dependent therefrom then also will be allowed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-5, 8, 9, 10-12, 14, 15, 16, 19 and 29-48 are rejected under 35 U.S.C. 102(b) as being anticipated by Magyar (US 3,828,925). Magyar discloses a fastener assembly comprising a plate (2) in combination with a stud (12); the plate having a bearing surface (the lower surface as seen in the Figs.) and an opposite top surface with the stud positioned therein such that its head is located significantly above the top surfaces so as to be received within the barrel of powered actuator (14). The plate having a guide means as an extending portion below the bearing surface (as provided between grooves 22) with the groove (22) corresponding thereto; an

Art Unit: 3677

attachment leg (4) is oriented perpendicular to the plate and parallel to the extending portions (see the embodiment of Fig. 3); the plate comprises a raised portion (18) in the form of a cylinder (see Fig. 5) which holds the stud and incorporates a plurality of grooves (16) which assist to collapse the raised portion upon actuation of the stud. In Fig. 8, the stud is shown extending below the bearing surface (note the phantom line). Since the claims are directed to a "fastener assembly", the guide means for being received within a track is considered merely an intended use of which the prior art is capable.

Claims 20, 21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Francis (US 4,903,831). Francis discloses a fastener assembly feeding system comprising a plate (10); a stud (80) held within the plate; an extending portion formed on the plate (the portion between steps 9 as seen in Fig. 3); a feeding track (14) having a mating portion to receive the extending portion (see Fig. 11a); whereby, in operation, the fastener being guided along the track. The extending portion includes a groove (at steps 9) and there is raised portion (the upper tapering portion as seen in Fig. 3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20-23 and 49-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Magyar in view of Francis. Magyar discloses a fastener assembly having features as described above but, does not disclose the fastener assembly in combination with a feeding track. Francis discloses a fastener assembly in combination with a feeding track having a complementary shape also as described above. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide Magyar with a feeding track as disclosed in Francis such that a plurality of fastening assemblies would be automatically loaded into the actuating gun for a more efficient operation.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 703-308-0182. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3677

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Flemming Saether
Primary Examiner
Art Unit 3677